

REMARKS

a. Restriction Requirement

In the Office Action, the Examiner set forth a Restriction Requirement that identified what the Examiner has characterized as two distinct inventions. In particular, the Examiner suggested in the Office Action that the present application contains claims directed to the following inventions:

- I. Claims 1-11, 13-19, and 29-31, drawn to an optical multiplexer/demultiplexer system, classified in class 385, subclass 24.
- II. Claims 12, 20-28, and 32-37, drawn to a method of multiplexing or demultiplexing optical signals, classified in class 398, subclass 43.

In response to the Restriction Requirement set forth in the Office Action, Applicant hereby elects Invention I (Claims 1-11, 13-19 and 29-31) for examination, without traverse.

b. Election of Species Requirement

In the Office Action, the Examiner also set forth an Election of Species Requirement and indicated that in the event Applicant should elect Invention I, Applicant must further elect from what the Examiner has characterized as the following patentably distinct species of the claimed invention:

Species A, Figure 3, drawn to a multiplexer system according to one embodiment of the invention.

Species B, Figure 4, drawn to a demultiplexer system according to another embodiment of the invention.

Species A, Figure 5, drawn to a tree structure arrangement for multiplexing or demultiplexing stages.

Species B, Figure 9, drawn to a modified tree structure arrangement that allows precise demultiplexing or multiplexing with transitional filters according to the invention.

In view of the election herein of Invention I, Applicant hereby elects Species "A" (directed to Figures 3 and 5) for examination, *with traverse*, as explained below. Claims 1-7 and claims 9-10 are readable on the Species "A."

Applicant's election herein is made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to

additional species that are written in dependent form or otherwise include all the limitations of an allowed generic claim, as provided by 37 C.F.R. § 1.141.

c. Traversal of Election of Species Requirement

Applicant hereby *traverses* the Election of Species Requirement. Particularly, the Examiner has defined Species “A” as consisting of Figures 3 and 5, and has further defined Species “B” as consisting of Figures 4 and 9. In general, Figure 3 is concerned with a multiplexer, while Figure 4 is concerned with a demultiplexer. However, the specification makes clear that the “tree structure” of Figure 5 and the “modified tree structure” of Figure 9 are suitable for use in multiplexing or demultiplexing applications.

With regard to Figure 5, the specification states “Figure 5 is a schematic depiction of a tree structure arrangement 100 such as a binary tree for multiplexing or demultiplexing stages using optical filters ...” *Para. 051. Emphasis added.* Similarly, the specification provides that “Figure 9 shows an optical multiplexer/demultiplexer system 120 in the form of a modified tree structure that allows precise demultiplexing or multiplexing ...” *Para. 055. Emphasis added.* Accordingly, Applicant respectfully submits that the Examiner has improperly characterized the device of Figure 5 as being limited to use in connection with the device of Figure 3, and Applicant likewise respectfully submits that the Examiner has improperly characterized the device of Figure 9 as being limited to use in connection with the device of Figure 4.

In light of the foregoing, Applicant respectfully requests that the Examiner reconsider the Election of Species Requirement set forth in the Office Action.

d. Claim amendments

By this paper, Applicant has amended claims 30 and 31 to reflect that the claim (29) from which those claims depend is not a method claim. No new matter is believed to be introduced as a result of the aforementioned claim amendments.

e. **Conclusion**

In the event the Examiner wishes to discuss any of the matters contemplated hereby, the Examiner is invited to initiate a telephone conversation with the undersigned.

Dated this 17th day of November, 2005.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter F. Malen, Jr.", with a long horizontal flourish extending to the right.

Peter F. Malen, Jr.
Attorney for Applicant
Registration No. 45,576
Customer No. 022913
Telephone No. 801-533-9800

PFM/gpm
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